IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1458 OF 2006

1. Chintaman Shankar Patil,
2. Umesh Jayram Patil,
3. Sainath Kathod Patil,
4. Ramesh Vitthal Shelar,
5. Harichandra Bango Satpure,
6. Ramesh Waman Gharat,
7. Chandrakant Keshav Gharat. ...Applicants

V/s.

The State of Maharashtra. ...Respondent

Shri A.P. Mundergi with Shri R.D. Suryawanshi for Applicants.
Ms.S.U. Gajre, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 20, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. The applicants have an apprehension that they are likely to be arrested in connection with an offence punishable under Sections 395, 324, 323, 504 and 526 of the IPC.

2. It is alleged that the applicants are the Managing Committee members of Thane District Local

Agriculturists Brick Kiln Producers Association. The complaint was filed against all the members of the Association including its President in which it was alleged that they entered the house of the complainant and assaulted him with sticks on his leg and there were some intervenors who were also assaulted with those sticks. It is alleged that someone removed an amount of Rs.9500/- from the pocket of the complainant. The incident, in question, took place at 10.30 in the morning on 13th March, 2006. A complaint, however, was lodged after 12 hours at about 10.40 p.m. at night which was registered at Padgha Police Station. An application for anticipatory bail was filed by the applicants and by the Chairman of the said Association. A Chairman was granted anticipatory on the ground that his presence had not been established at the scene of offence. The anticipatory bail was, however, rejected by the Sessions Court so far as the present applicants are concerned.

3. Learned Counsel for the applicants submits that there was rivalry between the local brick Kiln

Manufacturers and outsiders who had come from other areas in view of various concessions which were given by the Government of Maharashtra to the Brick Kiln Producers and on account of the said dispute between them, a false complaint was filed by the complainant.

4. Learned APP for the State, on the other hand, submits that the allegations against the present applicants are serious. It is alleged that an amount of Rs.9500/- was removed from the pocket of the complainant and he was assaulted.

5. It is an admitted position that the complainant and his son were assaulted with sticks on their legs and the injuries are simple injuries. So far as the allegation of dacoity is concerned, in the complaint, it is stated that unknown person had removed an amount of Rs.9500/- from his pocket. It is not stated in the complaint the name of the person who had removed the said amount. Learned APP has submitted that the said amount has to be recovered.

6. Considering the fact that there was rivalry between the association of the applicants and the outsiders, it appears that the dacoity committed was not the intention even if the allegations which are made in the complaint are accepted at its face value, as according to the complainant, the applicants had threatened him to quit the place and stop his business of brick kiln production. Except this intention, there was no occasion for committing robbery of Rs.9,500/- from his pocket. It is not alleged that they had taken away any other valuable article from the complainant or from any other person. Section 395, therefore, appears to have been added as an after thought which possibility cannot be denied since the complaint itself has been lodged after a lapse of 12 hours. Though the incident had taken place at 10.30 in the morning, the complaint was lodged at 10.30 at night. There is, therefore, some substance in the submission made by the learned Counsel for the applicants that the false complaint had been lodged to pressurise the present applicants who had started the movement for removal of the persons who had come from other States and from other areas in the said

locality. Section 438 has been incorporated which is statutory right in order to protect people who are likely to be falsely implicated by business rivals or opponents. Taking into consideration this aspect, in my view, the applicants have made out a case for grant of anticipatory bail.

7. In the event of their arrest in connection with C.R.No.I-23/2006 registered with Padgha Police Station, Taluka Bhiwandi, District Thane, for the offences punishable under Section 395, 324, 323, 504 and 506 of the IPC, the applicant may be released on bail in the sum of Rs.5000/- each with one or two sureties in the like amount. The applicants shall report to Padgha Police Station once in a week for a period of two months and thereafter, once in a month.

. Application is disposed of.

(V.M. Kanade, J.)